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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,318	07/28/2003	Jeanette E. O'Hara	GMC 0047 PA/40320.52	4444

7590 12/22/2005

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EXAMINER
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CHUO, TONY SHENG HSIANG

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/628,318	O'HARA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tony Chuo	1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 14-15, 18-20, 23-25, 31-41 is/are rejected.
- 7) ☒ Claim(s) 11, 13, 16-17, 21-22, 26-30, and 42-43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/12/05</u> .                                                             | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 12, 14-15, 18-20, 31, 33, and 38-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Isono et al (US 6365293). Regarding claims 1, 9 and 31, the Isono reference teaches a device: fuel cell "100", comprising an electrochemical conversion assembly: anode "120", cathode "110" and solid polymer membrane "101", a first reactant input "fuel gas" and first product output "fuel gas" in communication with first flow field region: fuel gas channels "141", a first porous diffusion media: gas diffusion layer "122", a second reactant input "air" and second product output "air" in communication with second flow field region: oxidizer gas channels "131", a second porous diffusion media: gas diffusion layer "112", a region of high water concentration "115B", a region of low water concentration "115A", a mesoporous layer: mixture layer "113" or "123" comprising a hydrophilic carbonaceous component: carbon black and a hydrophobic component: PTFE, and a mesoporous layer occupying a greater portion of one of high water region and low water region relative to other of high water region and low water region (See Figure 6, column 6, lines 18-20, and column 12, lines 10-12).

3. Regarding claim 2, the Isono reference teaches a ratio of the area of the water permeation suppressing part "24A" to the entire area of the gas diffusion layer "24" within 10 to 90%. The area of the water permeation part "24B" would also be 10-90%. In this case, the area of the water permeation suppressing part is the low water region and the area of the water permeation part is the high water region. Therefore, the mesoporous layer or mixture layer would be confined to one of high water region and low water region (See column 6, lines 18-20).

4. Regarding claims 3-5, the Isono reference teaches a mixture layer with higher water permeability at the high water region "24B" to enhance the water transfer properties of the gas diffusion layer along the portion of the major face occupied by the mixture layer (See Figure 3 and column 5, lines 30-37).

5. Regarding claims 6-8, the Isono reference teaches a mixture layer with lower water permeability at the low water region "24A" to diminish water transfer properties of the gas diffusion layer along the portion of the major face occupied by the mixture layer (See Figure 3 and column 5, lines 30-37).

6. Regarding claims 10 and 12, the Isono reference teaches a layer "115" comprising a gas diffusion layer "112" and mixture layer "113" where the water permeability is relatively low in an area closer to the entrance of the oxidizer gas and the water permeability is relatively high in an area closer to the exit of the oxidizer gas. The region of low water concentration is the area closer to the entrance of the oxidizer gas and region of high water concentration is the area closer to the exit of the oxidizer gas. The second reactant input is the area closer to the entrance of the oxidizer gas

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and the second product output is the area closer to the exit of the oxidizer gas on the cathode side of the fuel cell. The mixture layer also occupies a greater portion of the high water region near the second product output (See column 10, lines 41-46).

7. Regarding claims 14 and 15, the Isono reference teaches two mixture layers "211" and "212" along a major face of one of the first and second gas diffusion layers. The mixture layer "212" that is configured to enhance water transfer properties of gas diffusion layer occupies a greater portion of the high water region at the exit of the oxidizer gas. The mixture layer "211" that is configured to diminish water transfer properties of gas diffusion layer occupies a greater portion of the lower water region at the entrance of the oxidizer gas. (See Figures 12A and 12B)

8. Regarding claim 18, the Isono reference teaches a gas diffusion layer that comprises carbon paper which is a carbonaceous fibrous matrix (See column 6, lines 60-61).

9. Regarding claim 19, the Isono reference teaches a mixture layer where the hydrophobic component comprises PTFE which is a fluorinated polymer (See column 12, lines 10-12).

10. Regarding claim 20, the Isono reference teaches a mixture layer where the hydrophilic carbonaceous component comprises carbon black powder (See column 12, lines 10-12).

11. Regarding claim 33, the Isono reference is applied to claim 1 for the reason stated above. In addition, it also teaches that the ratio of pores of the gas diffusion layer is small, i.e. low porosity, at the entrance part which is the low water region and the ratio

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of pores of the gas diffusion layer is large, i.e. high porosity, at the exit part which is the high water region (See column 2, lines 11-17).

12. Regarding claim 38 and 39, the Isono reference teaches a gas diffusion layer that is 200  $\mu\text{m}$  in thickness which is between 100  $\mu\text{m}$  and 300  $\mu\text{m}$  in the high water regions and between 190  $\mu\text{m}$  and 300  $\mu\text{m}$  in the low water regions (See column 6, line 61).

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isono et al (US 6365293) in view of Fuglevand et al (US 6939636). The Isono reference is applied to claims 1-10, 12, 14-15, 18-20, 31, 33, and 38-39 for the reasons stated above. However, it does not expressly teach a mesoporous layer comprising about 80 wt% or between 75 and 85 wt% of carbonaceous component in the high water region. The Fuglevand reference does teach a mesoporous layer: micro-diffusion layer that has about 80% carbon content and 20% PTFE (See column 7, lines 35-36). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the mesoporous layer of the Isono fuel cell to include about 80%

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carbon content in order to increase the porosity of the mesoporous layer at the high water region.

15. Claims 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isono et al (US 6365293) in view of Fuglevand et al (US 6939636). The Isono reference is applied to claims 1-10, 12, 14-15, 18-20, 31, 33, and 38-39 for the reasons stated above. However, it does not expressly teach a mesoporous layer comprising between about 90 and 95 wt% of carbonaceous component in the low water region. The Fuglevand reference does teach a mesoporous layer: micro-diffusion layer that has about 90% carbon content and 10% PTFE (See column 7, lines 47-48). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the mesoporous layer of the Isono fuel cell to include about 90% carbon content in order to decrease the porosity of the mesoporous layer at the low water region.

16. Claims 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Isono et al (US 6365293) in view of Wood, III et al (US 6350539). The Isono reference is applied to claims 1-10, 12, 14-15, 18-20, 31, 33, and 38-39 for the reasons stated above. However, it does not expressly teach a structure defining a vehicle powered by the fuel cell. The Wood reference does teach a fuel cell that produces power for vehicle propulsion (See column 1, lines 5-9). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the Isono fuel cell for producing power for a vehicle so that it can be used in a practical application.

17. Claims 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isono et al (US 6365293) in view of Johnson et al (US 5840438). The Isono reference

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is applied to claims 1-10, 12, 14-15, 18-20, 31, 33, and 38-39 for the reasons stated above. However, it does not expressly teach a gas diffusion layer with a porosity of up to 90% in the high porosity region, a porosity of between 70% and 75% in the low porosity region, a porosity of above about 70% in the high water region, and a porosity of between 70% and 75% in the low water region. The Johnson reference teaches that a typical gas diffusion layer is made of a carbon fiber paper with a porosity of approximately 70% that would be used in the high porosity region, low porosity region, high water region, and low water region (See column 1, lines 22-28). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the gas diffusion layer of the Isono fuel cell to include a carbon paper with a porosity of about 70% because it's a readily available material.

18. Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isono et al (US 6365293) in view of Mussell et al (US 5620807). The Isono reference is applied to claims 1-10, 12, 14-15, 18-20, 31, 33, and 38-39 for the reasons stated above. However, it does not expressly teach a gas diffusion layer with a mean pore size of above about 20  $\mu\text{m}$  in the high water region and less than about 25  $\mu\text{m}$  in the low water regions. The Mussell reference does teach a gas diffusion layer with two regions of different mean pore sizes: 0.1-10  $\mu\text{m}$  in small pore region and 30  $\mu\text{m}$  in the large pore region (See Figure 1, column 5, lines 41-44, column 6, lines 1-2). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the gas diffusion layer of the Isono fuel cell to include a mean pore size of above about 20  $\mu\text{m}$  in the high water region and less than about 25  $\mu\text{m}$  in the low water



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regions in order to increase the porosity of the high water region and decrease the porosity of the low water region.

***Allowable Subject Matter***

Claims 11, 13, 16-17, 21-22, 26-30, and 42-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Regarding claims 11 and 13, the Isono reference teaches a second reactant input in a region of low water concentration and a second product output in a region of high water concentration, but it does not teach a first reactant input in a region of high water concentration and a first product output in a region of low water concentration. Regarding claims 16-17 and 28-30, the Isono reference teaches a mixture layer on top of the gas diffusion layer, but it does not teach a mixture layer along a reduced thickness portion of the gas diffusion layer or a mixture layer that infiltrates the gas diffusion layer by a depth of less than 10  $\mu\text{m}$  or 25  $\mu\text{m}$ . Regarding claims 21 and 22, the Isono reference teaches a carbon black characterized by a surface area of 200-300  $\text{m}^2/\text{g}$  and 700-800  $\text{m}^2/\text{g}$ , but it does not teach a mean particle size between 15 nm and 70 nm or less than 20 nm. Regarding claims 26-27, the Isono reference teaches a mixture layer with a certain thickness, but it does not teach a mixture layer with a thickness of less than 20 $\mu\text{m}$  in high water regions and between 10 $\mu\text{m}$  and 40 $\mu\text{m}$  in low water regions. Regarding claims 42-43, the Isono reference teaches a mixture layer with a certain porosity but it does not teach a region of increased porosity relative to

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remaining portion of mixture layer or a plurality of megapores characterized by a pore size between 100  $\mu\text{m}$  and 500 $\mu\text{m}$ .

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Chuo whose telephone number is (571) 272-0717. The examiner can normally be reached on M-F, 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

\*\*\* TC 12/19/05

**MICHAEL BARR**  
**SUPERVISORY PATENT EXAMINER**

